

BEFORE THE STATE BOARD OF EQUALIZATION  
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of )  
LARRY W. ARNOLD )

For Appellant: Larry W. Arnold,  
in pro. per.

For Respondent: James T. Philbin  
Supervising Counsel

O P I N I O N

This appeal is made pursuant to section 18593 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of Larry W. Arnold against a proposed assessment of personal income tax and penalties in the total amount of \$1,164.05 for the year 1980.

## Appeal of Larry W. Arnold

The question presented by this appeal is whether appellant has established that respondent's proposed assessment is in error.

After respondent received information from the Employment Development Department that appellant had received income in 1980, respondent advised appellant that it had no record of his having filed a California personal income tax return for that year and demanded that he file a return. After appellant failed to respond to that demand, respondent issued a notice of proposed assessment of tax based upon that information. The assessment included also a 25 percent penalty for failure to file a return (Rev. & Tax. Code, § 18681), a 25 percent penalty for failure to file a return after notice and demand (Rev. & Tax. Code, § 18683), and a 5 percent penalty for negligence (Rev. & Tax. Code, § 18684).

Appellant protested the proposed assessment. At the protest hearing held by respondent on July 12, 1982, appellant contended that he had not received enough income in lawful United States dollars since March 18, 1968, to be required to file a return. After consideration, respondent affirmed its proposed assessment and this appeal followed. In his appeal letter, appellant simply stated that he did not agree with the Franchise Tax Board, that its assessment was in error, and that he was not a taxpayer and owed no tax.

It is well settled that respondent's determinations of tax and penalties are presumptively correct, and the taxpayer bears the burden of proving them erroneous. (Appeal of Ronald W. Matheson, Cal. St. Bd. of Equal., Feb. 6, 1980; Appeal of Myron E. and Alice Z. Gire, Cal. St. Bd. of Equal., Sept. 10, 1969.) Appellant's unsupported statements that the assessment was in error and that he owes no tax do not shift the burden of proof to respondent. (Appeal of K. L. Durham, Cal. St. Bd. of Equal., March 4, 1980.) - -

-To the extent that appellant's appeal to us may have been based on the same arguments he reportedly advanced at respondent's protest hearing but were not specifically expressed in his appeal letter, we note that we have several times considered and rejected arguments that dollars are not taxable income. (Appeal of Francis J. Pearson, Cal. St. Bd. of Equal., May 19, 1981; Appeal of David M. Albrecht, Cal. St. Bd. of

Appeal of Larry W. Arnold

Equal., Feb. 1, 1982; Appeals of Fred R. Dauberger,  
et al., Cal. St. Bd. of Equal., March 31, 1982.)

Accordingly, we reject appellant's position that he is not subject to California's personal income tax, and we sustain respondent's action.

Appeal of Larry W. Arnold

O R D E R

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

**IT IS** HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of Larry W. Arnold against a proposed assessment of personal income tax and penalties in the total amount of **\$1,164.05** for the year 1980, be and the same is hereby sustained.

Done at Sacramento, California, this 21st day of June , 1983, by the State Board of Equalization, with Board Members Mr. Bennett, Mr. Collis, Mr. Dronenburg and Mr. Nevins present.

William M. Bennett , C h a i r m a n

Conway H. Collis , Member

Ernest J. Dronenburg, Jr. , Member

Richard Nevins , Member

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